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UNCLAS SECTION 01 OF 02 ALMATY 001437

SIPDIS

STATE FOR INL (PRAHAR, MCCOWAN), EUR/ACE (MLONGI), SCA/CEN
(J. MUDGE)
TREASURY FOR EOTF/FC (ASHARMA), OTA (JANTONOVICH), FINCEN
(GHAFNER, DNEAU)
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SUBJECT: ANTI-MONEY LAUNDERING IN KAZAKHSTAN -
PARLIAMENTARIANS TALK, THE PRESIDENT WILL DECIDE

REF: ALMATY 4353

¶1. (SBU) Summary: In conjunction with pending anti-money laundering (AML) legislation, INL sponsored an AML study tour for Kazakhstani parliamentarians to visit the financial intelligence unit (FIU) in Copenhagen, Denmark. Prior to the trip, the majority expressed doubt about the necessity for the creation of an FIU here, and expressed concern about the possible abuse of the powers the draft AML law provided to the Procurator General. By the conclusion of the study tour, however, the parliamentarians unanimously agreed on the need for the establishment of an FIU in Kazakhstan, but still maintained their doubts about the overall role of the PGO in that effort. In the end, however, the decision will likely be made by the President. End Summary.

BACKGROUND

¶2. (U) In cooperation with the Moscow-based advisor from the U.S. Department of Treasury's Office of Technical Assistance (OTA), INL arranged a March 29-31 study tour for Kazakhstani parliamentarians to Denmark in order to observe the operations of the Danish FIU. The tour included meetings with representatives of various Danish entities including the Public Prosecutor for Serious Economic Crime (i.e. the Danish FIU), the Financial Supervisory Authority, the Bankers' Association, the Danske Bank, and the Danish Association of Entrepreneurs.

¶3. (U) The trip followed from a Fall 2005 PGO request that INL organize a study tour for parliamentarians to a country where an FIU operates under the auspices of the Procurator's Office, as it was/is expected to do in Kazakhstan according to the draft law on "Combating Legalization (Laundering) of Illicit Proceeds and Financing of Terrorism," draft legislation under consideration by the Mazhilis (lower house of parliament.)

14. (U) The trip became possible on December 7 when the Mazhilis postponed voting on the draft law until March 2006 due to outstanding questions concerning the draft from various parliamentarians (reftel).

MEMBERS HAVE DOUBTS ABOUT AML (AND PGO)

15. (SBU) Prior to the trip, we heard directly that some parliamentarians had unresolved concerns about the PGO-drafted AML law which placed the future Financial Intelligence Unit under the authority of the already powerful PGO. In particular, parliamentarians were concerned about PGO authority to monitor financial transactions which would provide ready access to information that the procurators would then use for bureaucratic advantage, or worse, political influence and personal gain. For its part, the Kazakhstani PGO had hoped that this trip would alleviate these concerns by demonstrating how an FIU successfully functions under the auspices of a PGO.

BEST LAID PROCURATOR PLANS GO AWRY

16. (SBU) Despite the PGO's attempt to use the trip to present Denmark to the parliamentarians as a model for Kazakhstan to follow (PGO control over a financial intelligence unit which would monitor financial transactions) it appeared they had not done their homework. In Copenhagen, upon hearing the explanation of the Danish system, the parliamentarians quickly noted, to the point of

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applauding and cheering, that the authority of the FIU in Denmark was substantially greater than that envisioned for Kazakhstan, and that the Procurator had no role in monitoring financial transactions. The Kazakhstani PGO representatives accompanying the parliamentarians were surprised to learn that in Denmark, an additional regulatory institution independent of the PGO known as the Financial Supervisory Authority (FSA) supervises compliance with the AML legislation.

17. (SBU) The representative of the Danish FIU addressing the delegation pointed out that the authority of the Danish FIU (the Public Prosecutor for Serious Economic Crime) includes the investigation and prosecution of economic crimes. He continued on to say that it does not/not include the supervision or direct oversight of compliance with the AML legislation as would be the case should the FIU be created under the PGO. (Note: According to a Presidential Decree dated April 14 2005, the FIU is to be created under the auspices of the PGO. How the Mazhilis will square this with possible amendments to the draft AML law which limit the power of the PGO is unclear. End Note.)

PARLIMENTARIANS SEE AML - NOT THE PGO IN A NEW LIGHT

18. (SBU) Some of the participants revealed that visiting the Danish FIU enabled them to decide that while financial sector monitoring was necessary, vesting this authority in the PGO was not desirable.

19. (SBU) They stated they will consider proposing a number of amendments to the dominant oversight role for the PGO as written in current draft law. Some of the delegates even suggested that a future Kazakhstani FIU should not be under the auspices of the PGO at all. Instead, they said that such an institution would be better placed under the jurisdiction of the Ministry of Finance or under the authority of the National Bank.

COMMENT

¶10. (SBU) If the comments of the participants can be taken at face value, the study tour to Denmark may have a significant influence on the establishment of an FIU in Kazakhstan. If this group of parliamentarians were skeptical of the need to establish such an institution in Kazakhstan before visiting Denmark, they now seem to be convinced that an FIU should be created as part of a new AML law. At the same time, the parliamentarians' experience in Denmark may lead to significant changes in the draft AML law, including the changes in the form that an FIU takes in Kazakhstan

¶11. (SBU) However, comments by some parliamentarians during the course of the trip reveal a degree of cynicism about the entire process of complying with international agreements in general, and the AML in particular. Some claimed the draft AML law was merely an effort to satisfy international opinion and would have no real role in financial sector regulation in Kazakhstan. For the sake of interaction of Kazakhstan's banking system with the worldwide financial markets, and its self-stated desire to be a regional financial hub, we can only hope that the former outweigh the latter. Realistically though, we must acknowledge that the ultimate decision will likely rest with President Nazarbayev.

ORDWAY